

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

JAVED IQBAL,

Plaintiff,

- against -

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

**REPORT AND
RECOMMENDATION**

09 Civ. 10133 (DAB) (RLE)

To the HONORABLE DEBORAH A. BATTS, U.S.D.J.::

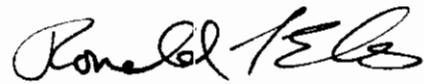
A District Court may dismiss a case for failure to serve a defendant within 120 days. Fed. R. Civ. P. Rule 4(m); *see Zapata v. City of New York*, 502 F.3d 192, 197 (2d Cir. 2007). Plaintiff Iqbal filed a Complaint in this action on December 11, 2009. To date, Iqbal has failed to serve Defendant. On May 12, 2010, the Court ordered Iqbal to serve Defendant or show good cause by June 1, 2010, why the case should not be dismissed for failure to prosecute. In the order, the Court noted that a failure to respond might result in the dismissal of his case. To date, more than 193 days have elapsed since the Complaint was filed, and Iqbal has failed to serve Defendant. Therefore, the Court recommends that Iqbal's case be **DISMISSED** without prejudice for failure to serve Defendant.

Pursuant to Rule 72, Federal Rules of Civil Procedure, the parties shall have fourteen (14) days after being served with a copy of the recommended disposition to file written objections to this Report and Recommendation. Such objections shall be filed with the Clerk of the Court and served on all adversaries, with extra copies delivered to the chambers of the Honorable Deborah A. Batts, 500 Pearl Street, Room 2510, and to the chambers of the undersigned, Room 1970. Failure to file timely objections shall constitute a waiver of those

See Thomas v. Arn, 474 U.S. 140, 150 (1985); *Small v. Sec'y of Health and Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989) (*per curiam*); 28 U.S.C. § 636(b)(1) (West Supp. 1995); Fed. R. Civ. P. 72, 6(a), 6(d).

DATED: June 22, 2010
New York, New York

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Ronald L. Ellis", written over a horizontal line.

The Honorable Ronald L. Ellis
United States Magistrate Judge

Copies of this Report and Recommendation were sent to:

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